



General Assembly

February Session, 2012

Raised Bill No. 5036

LCO No. 405

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Referred to Committee on Program Review and Investigations

Introduced by:
(PRI)

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS
COMMITTEE CONCERNING THE PROVISION OF SELECTED
SERVICES FOR PERSONS WITH INTELLECTUAL DISABILITY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) Notwithstanding the
2 provisions of section 17a-277 of the general statutes, the Commissioner
3 of Developmental Services shall not accept any person with intellectual
4 disability for admission to a regional facility or community-based
5 residential facility operated by the Department of Developmental
6 Services, unless such person is a department client: (1) Transferred
7 from the Southbury Training School; (2) transferred from a regional
8 facility operated by the department; (3) who is in need of placement at
9 a particular facility operated by the department because such facility is
10 the only facility designed to serve a specific need of the client; or (4)
11 who is placed at such a facility operated by the department pursuant
12 to a court order.

13 (b) Not later than January 1, 2013, and not later than January first
14 annually thereafter the Commissioner of Developmental Services shall

15 evaluate the direct care staffing levels for the Southbury Training
16 School, each regional center and each community-based residential
17 facility that is operated by the department. Such evaluation shall
18 include consideration of: (1) The service and programming needs of
19 each of the facility's clients, as determined by the department's level-
20 of-need assessments; and (2) a determination of the appropriate level
21 of security and supervision needed by the facility's clients. The
22 commissioner shall compare staffing levels at facilities operated by the
23 department with the staffing levels at facilities in the private sector that
24 serve clients with similar needs. Where the commissioner finds that
25 staffing levels in a facility operated by the department are higher than
26 a comparable private-sector facility, the commissioner shall reassign
27 staff from the department-operated facility to assist clients living in
28 their homes who are awaiting residential services. Such assistance may
29 include respite care and other direct care client services. All staff
30 reassignments made by the commissioner pursuant to this subsection
31 shall be made in accordance with applicable collective bargaining
32 agreements.

33 (c) The Commissioner of Developmental Services shall not hire any
34 person to fill a direct care staff position for a residential, day services
35 or an employment program of the department without prior
36 authorization from the Secretary of the Office of Policy and
37 Management. The commissioner shall, prior to making a request to the
38 Secretary of the Office of Policy and Management to hire a person to
39 fill such a position, ensure that: (1) The hiring is related to public
40 health or safety; (2) the hiring is necessary to ensure compliance with a
41 collective bargaining agreement, court order, or state or federal law;
42 and (3) there is no alternative way to carry out the function of the
43 position.

44 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) As used in this section:
45 (1) "Interdisciplinary team" means a group of persons arranged by the
46 Department of Developmental Services for each client of the
47 department, that may include a social worker, psychologist, nurse,

48 residential programmer, educational or vocational programmer and
49 such other persons who work closely with the client and whose
50 participation may be necessary to determine the needs of the client;
51 and (2) "most integrated residential setting" means a residence that
52 enables the client to interact with persons without a disability to the
53 fullest extent reasonably possible.

54 (b) The Department of Developmental Services shall arrange for an
55 evaluation of each client of the Southbury Training School and each
56 client of a regional facility operated by the department to be conducted
57 by the client's interdisciplinary team. The interdisciplinary team shall,
58 based upon the members' professional judgment, determine the client's
59 priority programming needs and determine the least restrictive and
60 most integrated residential setting in which those needs are likely to be
61 met.

62 (c) Not later than March 1, 2013, the interdisciplinary team shall
63 notify the client, if appropriate, and the client's parent, conservator,
64 guardian or other legal representative, in writing, of its determination
65 of the most integrated residential setting appropriate for placement of
66 the client. The interdisciplinary team shall provide the client, if
67 appropriate, and the client's parent, conservator, guardian or other
68 legal representative with sufficient information to assist the client and
69 the client's parent, conservator, guardian or other legal representative
70 in deciding whether to accept the recommended placement. Such
71 information shall include, but not be limited to, reports of inspections
72 conducted by the Department of Public Health or the Department of
73 Developmental Services for each facility in which the client currently
74 resides and for each facility in which placement of the client is
75 recommended.

76 (d) The Commissioner of Developmental Services shall ensure
77 placement of a client occurs as soon as reasonably possible after the
78 client and the client's guardian or family member accepts a
79 recommended placement. If a client and a client's parent, conservator,

80 guardian or other legal representative do not accept a placement
81 recommendation, the interdisciplinary team shall reevaluate the
82 client's needs and make a recommendation for placement at least once
83 annually.

84 Sec. 3. Section 17a-227 of the 2012 supplement to the general statutes
85 is repealed and the following is substituted in lieu thereof (*Effective*
86 *October 1, 2012*):

87 (a) No person, firm or corporation shall operate within this state a
88 community living arrangement or community companion home which
89 it owns, leases or rents for the lodging, care or treatment of persons
90 with intellectual disability, Prader-Willi syndrome or autism spectrum
91 disorder unless such person, firm or corporation, upon written
92 application, verified by oath, has obtained a license issued by the
93 Department of Developmental Services.

94 (b) The commissioner shall adopt regulations, in accordance with
95 the provisions of chapter 54, to [insure] ensure the comfort, safety,
96 adequate medical care and treatment of such persons at the residential
97 facilities described in subsection (a) of this section. Such regulations
98 shall include requirements that: (1) All residential facility staff be
99 certified in cardiopulmonary resuscitation in a manner and time frame
100 prescribed by the commissioner; (2) records of staffing schedules and
101 actual staff hours worked, by residential facility, be available for
102 inspection by the department upon advance notice; (3) each residential
103 facility develop and implement emergency plans and staff training to
104 address emergencies that may pose a threat to the health and safety of
105 the residents of the facility; (4) department staff verify during quality
106 service reviews and licensing inspections, that (A) staff is adequately
107 trained to respond in an emergency, and (B) a summary of information
108 on each resident is available to emergency medical personnel for use in
109 an emergency; and (5) not less than one-half of the quality service
110 reviews, licensing inspections or facility visits conducted by the
111 department after initial licensure are unannounced.

112 (c) After receiving an application and making such investigation as
113 is deemed necessary and after finding the specified requirements to
114 have been fulfilled, the department shall grant a license to such
115 applicant to operate a facility of the character described in such
116 application, which license shall specify the name of the person to have
117 charge and the location of each facility operated under the license. Any
118 person, firm or corporation aggrieved by any requirement of the
119 regulations or by the refusal to grant any license may request an
120 administrative hearing in accordance with the provisions of chapter 54.
121 If the licensee of any such facility desires to place in charge thereof a
122 person other than the one specified in the license, application shall be
123 made to the Department of Developmental Services, in the same
124 manner as provided for the original application, for permission to
125 make such change. Such application shall be acted upon not later than
126 ten calendar days from the date of the filing of the application. Each
127 such license shall be renewed annually upon such terms as may be
128 established by regulations and may be revoked by the department
129 upon proof that the facility for which such license was issued is being
130 improperly operated, or for the violation of any of the provisions of
131 this section or of the regulations adopted pursuant to this section,
132 provided the licensee shall first be given a reasonable opportunity to
133 be heard in reference to such proposed revocation. Any person, firm or
134 corporation aggrieved by such revocation may request an
135 administrative hearing in accordance with the provisions of chapter 54.
136 Each person, firm or corporation, upon filing an application under the
137 provisions of this section for a license for a community living
138 arrangement, shall pay to the State Treasurer the sum of fifty dollars.

139 (d) The Department of Developmental Services may contract, within
140 available appropriations, with any qualified provider for the operation
141 of a community-based residential facility, provided the qualified
142 provider is licensed by the department to operate such [facilities]
143 facility. The department shall include in all contracts with such
144 licensed qualified providers, provisions requiring the department to
145 (1) conduct periodic reviews of contract performance, and (2) take

146 progressive enforcement actions if the department finds poor
147 performance or noncompliance with the contract, as follows: (A) The
148 licensed qualified provider may be placed on a strict schedule of
149 monitoring and oversight by the department; (B) the licensed qualified
150 provider may be placed on a partial-year contract; and (C) payments
151 due under the contract may be reduced by specific amounts on a
152 monthly basis until the licensed qualified provider complies with the
153 contract. If compliance cannot be achieved, the department shall
154 terminate the contract.

155 (e) In each residential facility operated by the Department of
156 Developmental Services or a person, firm or corporation licensed to
157 conduct or maintain a residential facility pursuant to this section, said
158 department, or such person, firm or corporation shall permit clients in
159 the residential facility, relatives and legal representatives of clients in
160 the facility and any other person designated by such clients and
161 persons to review all inspection reports pertaining to the residential
162 facility made by the Department of Developmental Services, the
163 Department of Public Health, the State Fire Marshal, local fire and
164 health departments and other state and local agencies having
165 jurisdiction over the facility, and all summary copies of current
166 inspection reports of the United States Department of Health and
167 Human Services, as provided in the Social Security Act. Said
168 department or such person, firm or corporation shall provide a room
169 adequate for such review during normal business hours, provided no
170 such inspection report or copy thereof shall disclose the name of any
171 client of the residential facility. Said department or such person, firm
172 or corporation shall post or cause to be posted in a conspicuous place
173 in the residential facility a notice stating that such inspection reports
174 are available for review and the location where such reports may be
175 reviewed.

176 ~~[(e)]~~ (f) The department may contract with any person, firm or
177 corporation to provide residential support services for persons with
178 intellectual disability, Prader-Willi syndrome or autism spectrum

179 disorder who reside in settings which are not licensed by the
180 department. The commissioner shall adopt regulations, in accordance
181 with the provisions of chapter 54, to ensure the safety, adequate
182 supervision and support of persons receiving such residential support
183 services.

184 ~~[(f)]~~ (g) Any person, firm or corporation who operates any facility
185 contrary to the provisions of this section shall be fined not more than
186 one thousand dollars or imprisoned not more than six months or both.
187 Any person, firm or corporation who operates any facility contrary to
188 the regulations adopted pursuant to subsection (b) of this section shall
189 be fined not more than one thousand dollars.

190 Sec. 4. Section 17a-212 of the general statutes is amended by adding
191 subsection (c) as follows (*Effective October 1, 2012*):

192 (NEW) (c) The Commissioner of Developmental Services shall
193 establish a centralized utilization review process for clients in twenty-
194 four-hour residential care facilities whose residential or day program
195 funding and services exceed the Department of Developmental
196 Services' funding guidelines that are based on the department's
197 assessment of the client. Individuals conducting the department's
198 centralized utilization review process shall include: (1) The director for
199 each regional facility, or the regional director's designee; (2) the
200 department's central office director of operations, or the director of
201 operation's designee; and (3) the department's central office budget
202 director, or the budget director's designee. The commissioner shall
203 maintain an electronic database that includes the results of the
204 utilization review process and shall: (A) Compare the number of the
205 department's clients in each region whose residential or day program
206 funding and services exceed such funding guidelines; (B) determine
207 the reason such funding and services exceed such funding guidelines;
208 and (C) determine the total number of department clients whose
209 residential or day program funding and services exceed such funding
210 guidelines. The commissioner shall include a summary of the results of

211 the utilization review process in the department's management
212 information report that is posted on the department's web site at the
213 end of each fiscal year.

214 Sec. 5. (NEW) (*Effective October 1, 2012*) (a) In determining the
215 amount of payments to be paid by the state under section 17a-246 of
216 the general statutes to any organization or facility which provides
217 employment opportunities or day services for persons referred by the
218 Departments of Developmental Services, Mental Health and Addiction
219 Services and Social Services, or any other state agency, the total cost
220 allowance for the salary of the director of such organization or facility
221 shall not exceed one hundred thousand dollars, except that on July 1,
222 2007, and each July first annually thereafter, the cost allowance for the
223 salary of the director may be increased by an amount not to exceed the
224 percentage increase of any cost of living increase provided under the
225 terms of the contract with the organization or facility.

226 (b) The Commissioner of Developmental Services shall, prior to
227 entering into or renewing a contract with a person, firm or corporation
228 to provide residential support services, as described in subsection (f) of
229 section 17a-227 of the general statutes, as amended by this act, review
230 the salaries to be paid to the person, firm or corporation's direct care
231 employees in relation to: (1) The salary of the executive director for the
232 person, firm or corporation; (2) the self-sufficiency measurement
233 calculated pursuant to section 4-66e of the general statutes; and (3)
234 income eligibility levels for an individual or family to receive state
235 Medicaid benefits and benefits under other state-administered
236 assistance programs. The commissioner shall consider such factors in
237 determining the amount of payments to be paid by the state under
238 section 17a-246 of the general statutes.

239 (c) The Commissioner of Developmental Services shall, prior to
240 renewing a contract with a person, firm or corporation to provide
241 residential support services, as described in subsection (f) of section
242 17a-227 of the general statutes, as amended by this act, ensure the

243 person, firm or corporation has substantially complied with the
244 department's cost-reporting requirements.

245 Sec. 6. Section 20 of public act 91-11 of the June special session, as
246 amended by section 7 of public act 07-238, is repealed. (*Effective October*
247 *1, 2012*)

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2012</i> | New section |
| Sec. 2 | <i>October 1, 2012</i> | New section |
| Sec. 3 | <i>October 1, 2012</i> | 17a-227 |
| Sec. 4 | <i>October 1, 2012</i> | 17a-212 |
| Sec. 5 | <i>October 1, 2012</i> | New section |
| Sec. 6 | <i>October 1, 2012</i> | Repealer section |

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| Sec. 3 | <i>October 1, 2012</i> | 17a-227 |
| Sec. 4 | <i>October 1, 2012</i> | 17a-212 |
| Sec. 5 | <i>October 1, 2012</i> | New section |
| Sec. 6 | <i>October 1, 2012</i> | Repealer section |

Statement of Purpose:

To implement the recommendations of the Legislative Program Review and Investigations Committee regarding the provision of selected services for persons with intellectual disabilities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]